



Comptroller General  
of the United States

Washington, D.C. 20548

161805

## Decision

**Matter of:** William Noll - Real Estate Expenses

**File:** B-235966

**Date:** June 1 1994

### DIGEST

An employee who had been authorized a transfer with full relocation benefits entered into a property agreement with his spouse to sell their property and divide the proceeds incident to their separation. By the time of the real estate settlement, the couple had divorced. The employee claims full reimbursement for the closing costs based on his marital status at the time of property settlement. However, the general rule is that the amount of employee's reimbursement for real estate expenses is determined on the date of settlement. The agreement in this case did not convey full title to the employee, or assign the full closing costs to him, and it is presumed that such costs were shared. Therefore, his reimbursement is limited to 50 percent of reimbursable costs, the extent of his interest in the property at the time of settlement.

### DECISION

An authorized official of the Department of Energy<sup>1</sup> requests a decision on Mr. William Noll's claim for reimbursement of 100 percent of the costs incurred in the sale of his residence at his former duty station incident to a transfer. We conclude Mr. Noll may be reimbursed only 50 percent of the costs, the extent of his interest in the residence at the time of the settlement of the real estate sale.

### BACKGROUND

Mr. Noll, an employee of the Department of Energy, entered into a binding property settlement agreement with his then-wife on May 30, 1992, incident to their separation. This was about four months before the settlement on the sale of

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<sup>1</sup>The request was submitted by the Director, Finance Division, Department of Energy, Savannah River Operations Office, Aiken South Carolina.

their residence. At the time of the real estate settlement, the Nolls were legally divorced and shared joint title to the residence. Therefore, since at that time Mr. Noll held title with a person who was no longer a member of his household, the agency limited his reimbursement to 50 percent of the allowable settlement expenses. Mr. Noll, however, claims 100 percent of the expenses on the grounds that the property settlement agreement he and Mrs. Noll entered into contemplated sale of the residence and disposition of the proceeds, including any reimbursement of expenses by the government. Thus, he asserts, the date of the property settlement agreement, rather than the date of the real estate settlement, should be used to determine the extent of his interest in the property since, on that earlier date, he held title to the property with his spouse.

#### OPINION

An employee who is eligible for relocation benefits incident to a transfer may be reimbursed for the real estate expenses incurred in the sale of a residence only if the employee holds title to that residence in the employee's name alone or with a member of the employee's immediate family. 41 C.F.R. § 302-6.1(c) (1993). An employee's former spouse is not an immediate family member. When an employee holds title to a residence with someone who is not a member of his immediate family, such as a former spouse, the employee's reimbursement of expenses is limited to the extent of the employee's legal interest in the property. Alan Wood, 64 Comp. Gen. 299 (1985).

The amount of reimbursement is determined by the employee's interest on the date of settlement. Wood, supra. The reasoning for using this date is that, like any expense claimed by an employee, the employee must actually incur the claimed expense and, generally, we presume that the expenses of a real estate transaction are paid at settlement. Id.

Thus, when an employee who is married at the time he or she was first definitely notified of a transfer and who shares joint title to the residence with a spouse from whom the employee is subsequently divorced before the date of settlement, the employee's reimbursement is limited to half of that for which a married employee otherwise would be eligible. Wood, supra. We have allowed full reimbursement to an employee who held title with his spouse at the time of his transfer, but before the settlement date, obtained a quitclaim deed from his spouse giving him full ownership of their property, even though the couple was divorced before the settlement date. Glen A. Freeman, B-254645, Mar. 14, 1994. This is not the case with Mr. Noll.

As to the Noll's settlement agreement, it provided for the sale of the residence and the division of the proceeds, but it did not convey Mrs. Noll's legal interest to Mr. Noll nor assign the full closing costs to Mr. Noll. Therefore, the agreement is not sufficient to rebut the presumption that the settlement expenses Mr. Noll incurred were other than in proportion to his interest in the property.<sup>2</sup>

Accordingly, Mr. Noll's reimbursement was properly limited to the extent of his interest in the residence at the time of settlement.

*for* *Seymour Efron*

Robert P. Murphy  
Acting General Counsel

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<sup>2</sup>Even if it had assigned the full costs to Mr. Noll, that may not have been conclusive since other provisions of the agreement may take that into consideration in allocating cost and division of property.